

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 850 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ORIENTAL INSURANCE CO LTD

Versus

JAYANTILAL MAHADEV PURI GAUSWAMI

Appearance:

MR HJ BHATT for Petitioner

MRS VASAVDATTA BHATT for Respondent No. 3

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 22/09/97

ORAL JUDGEMENT

1. Admit. Mrs.Vasavdatta Bhatt waives service of admission. This FA is preferred by the Oriental Insurance Co.Ltd under section 173 of Motor Vehicles Act, 1988 wherein the MACT at Kheda has directed that under the principle of "no fault liability" under section 140 of the Motor Vehicles Act, 1988 the GSRTC as well as the Oriental Insurance Co.Ltd were liable to deposit amount

of Rs.50,000/-. The victim was driving the vehicle being Ambassador Car bearing Reg.No.GAM 4244 and was holding licence and the ST bus came from opposite direction and dashed with the vehicle which has resulted into death of the victim, namely, Darshanpuri Jayantilal Gauswami. Under the principle of "no fault liability" enacted by the aforesaid provision of Section 140 of the Motor Vehicles Act in case of death of a person towards no fault liability amount of Rs.50,000/- is required to be deposited. The application being MACP No.1467/95 Exh.7 filed in the petition wherein the tribunal has directed to deposit the amount of Rs.50,000/- by the Insurance Company of the Car as well as Gujarat State Road Transport Corporation. Since the question of contributory negligence or composite liability is yet to be determined the tribunal has directed the claimants to recover Rs.50,000/- as interim compensation towards "no fault liability" and the Insurance Company is directed to deposit Rs.25,000/- while the GSRTC is directed to deposit Rs.25,000/- towards "no fault liability" because the question of contributory negligence and/or composite negligence is yet to be gone into by the tribunal. The liability of the Insurance Co. is therefore to the extent of depositing Rs.25,000/- at this stage together with costs and interest as directed by the tribunal. The balance amount shall be deposited by the GSRTC. FA stands disposed of subject to aforesaid clarification. No costs.

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